IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 615 of 1996

GOVIND DAS & ORS
V/S
MANMOHAN

Mr. RK PUROHIT, for Mr. RAJENDRA MEHTA for the appellant.

Mr. JK BHAIYA, for the respondent

Date of Order : 11.12.2004

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

This appeal has been filed against the order of the learned trial court dt. 7.8.1996 passed on the application under O. 39 Rule 1 and 2 C.P.C. whereby the plaintiff's application for temporary injunction was allowed, and the defendants were restrained from alienating the property pending disposal of the suit, and were further directed not to alter the original form of the property. As appears from the impugned order that the suit was filed for partition, and allegation was made that the defendant wants to alienate the property, and usurp it, while he has no right to alienate any part of the property without partition.

The appeal was filed way back on 22.10.1996, and came up before the Court for admission on 15.11.1996 on which date show cause notice was issued for final disposal, and at the same time on the stay application while issuing notice status quo as it existed on that day was directed to be maintained. Thereafter, after service the matter came up and record of the learned court below was ordered to be requisitioned. Then application was filed under O. 1 R. 10 which was also disposed of, and thereafter vide order dt. 16.7.2002 the appeal was admitted after hearing both the learned counsel. However, the interim stay order was not prayed to be modified, or vacated by either parties.

As appears from the impugned order that the suit was filed way back in the year 1995. Now we are at the end of the year 2004, and it has but to be assumed that the suit must have registered material progress during this period. In these circumstances, I do not feel it expedient now to go into the merits of the impugned order, so as to interfere at the request of the learned counsel for the appellant more

particularly when the parties have stood by the order of the status quo for the last more than 8 years.

In these circumstances the appeal is simply disposed of with a direction to the parties to maintain status quo as ordered by this Court vide order dt. 15.11.1996 with a direction to the learned trial court to decide the main suit most expeditiously preferably within a period of one year from today.

(N P GUPTA),J.

/Sushil/